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Richard L. Mayer
KENYON & KENYON
One Broadway
New York, NY 10004

In re Application of:	:	
EBERHARD, Klein et al	:	
Application No.: 10/502,430	:	DECISION
PCT Application No.: PCT/DE02/03408	:	
Int. Filing Date: 12 September 2002	:	UNDER
Priority Date: 22 January 2002	:	
Atty Docket No.: 10191/3445	:	37 CFR 1.181
For: METHOD AND DEVICE...INTERNAL	:	
COMBUSTION ENGINE	:	

This decision is in response to applicants' "RENEWED PETITION TO WITHDRAW HOLDING OF ABANDONMENT" filed 18 January 2007, which has been treated as a petition under 37 C.F.R. 1.181.

BACKGROUND

On 12 September 2002, applicants filed international application PCT/DE02/03408, which designated the U.S. and claimed priority date of 22 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) on 31 July 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 22 July 2004.

On 22 July 2004, applicants filed a submission for entry into the national stage in the United States, which was accompanied by, *inter alia*, the U.S. Basic National Fee and an English translation.

On 16 November 2004, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) noting, *inter alia*, the text in the drawings was not properly translated and that an oath or declaration of the inventors and a translation of the application into English were required.

On 05 January 2005, applicants filed an executed declaration, a Power of Attorney and four (4) sheets of substitute drawings translating the text of the figures.

On 21 March 2005, the Office mailed a Notification of a Defective Response indicating figure 4 was not properly translated and that a translation was required within one month or the time remaining in the Notification of Missing Requirements.

On 21 August 2006, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/905) indicating the application went abandoned for failure to timely reply to the Notification of Missing Requirements.

On 15 September 2006, applicants filed a copy of the "Response to Notification of a Defective Response" originally filed on 21 April 2005, accompanied with a postcard receipt and a copy of figures 4 and 5. Someone not registered to practice before the Office signed the cover letter.

On 21 September 2006, applicants sent a Petition to Withdraw Holding of Abandonment, along with copies of the 21 April 2005 submission and a postcard receipt.

On 21 November 2006, the Office mailed a Decision on the Petition, filed 15 September 2006, dismissing applicants' petition to withdraw the holding of abandonment, explaining that the submission would not have been sufficient to avoid abandonment.

On 18 January 2007, applicants sent a Renewed Petition to Withdraw Holding of Abandonment, along with copies of the 21 April 2005 submission and a postcard receipt.

On 29 January 2007, the Office mailed a Decision on the Petition, filed 21 September 2006, dismissing applicants' petition to withdraw the holding of abandonment, explaining that the submission would not have been sufficient to avoid abandonment.

DISCUSSION

Applicants were previously informed in the 29 January 2007 decision that "the text of figure 4 was not properly translated" and "a proper response is either a new translation of the entire application and drawings removing the German language abbreviations or the submission of a translation of figure 4 and a return to the original translation of figure 5". The decision also indicated that a timely response to the Notification was not of record and the application was abandoned.

In the petition filed 18 January 2007, applicants contend that a formal "Petition to Withdraw Holding of Abandonment" mailed on 21 September 2006 was timely filed with the proper response, noting that the response was filed within one month of 21 March 2005. Applicants also submitted a copy of a translation of figure 4 and the original figure 5.

The text of figure 4 is not properly translated. The quantity of English text provided for the translation of figure 4 appears to be more than the quantity of the original text of figure 4. The terms used in figure 4 are not fully supported by the original specification. It appears that the additional terms added to figure 4 could be new matter. Applicants are requested to provide the proper translation of figure 4.

Although applicants' response on 21 April 2005 was timely filed, the reply was not responsive to the Notification of a Defective Response, for the reasons set forth above. The application remains abandoned.

A proper response is a petition for Revival under 37 C.F.R. 1.137 accompanied by a proper translation of the text of figure 4.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bena Miller
PCT Legal Examiner Detailee
PCT Legal Office



Richard Cole
PCT Legal Examiner
PCT Legal Office